IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

CHARLES RODERIC BROWN,

Appellant.

DOCKET NUMBER WD73280

MISSOURI COURT OF APPEALS WESTERN DISTRICT

DATE: March 13, 2012

APPEAL FROM

The Circuit Court of Boone County, Missouri The Honorable Deborah Daniels, Judge

JUDGES

Division Two: Witt, P.J., and Ellis and Pfeiffer, JJ.

CONCURRING.

ATTORNEYS

Andrea S. Hayes, Assistant Prosecuting Attorney Columbia, MO

Attorney for Respondent,

Alexa Irene Pearson, Assistant State Public Defender Columbia, MO

Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI,)
Respondent,)
v.	OPINION FILED:
) March 13, 2012
CHARLES RODERIC BROWN,)
)
Appellant.)

WD73280 Boone County

Before Division Two Judges: Gary D. Witt, Presiding Judge, and Joseph M. Ellis and

Mark D. Pfeiffer, Judges

Late on a Friday evening, a young woman looked out her bedroom window and saw Charles Brown leaning against her car, masturbating. Brown was on a lit residential street lined with multi-family residences, and his genitals were fully exposed. Brown was charged with second-degree sexual misconduct. After a bench trial, the Circuit Court of Boone County convicted Brown. Brown appeals.

AFFIRMED.

Division Two holds:

- (1) There was sufficient evidence to support Brown's conviction of second-degree sexual misconduct under section 566.093.11(1). The evidence showed that Brown exposed his genitals under circumstances in which he knew, or should have known, that his conduct was likely to cause affront or alarm.
- (2) The trial court did not plainly err in failing to order, *sua sponte*, that Brown's sentencing hearing be recorded because Brown did not request that the hearing be recorded. The lack of a transcript from that hearing did not prejudice Brown, and he did not exercise due diligence to correct the alleged deficiency in the record or even bring it to the attention of the trial court.

Opinion by: Mark D. Pfeiffer, Judge

March 13, 2012

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